

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC
Plaintiff,

V.

TEXAS INSTRUMENTS, INC.
Defendants

§ Civil Action No. 6:12-CV-499 MHS

LEAD CASE

BLUE SPIKE, LLC,
Plaintiff,

V.

AUDIBLE MAGIC CORPORATION,
FACEBOOK, INC., MYSPACE, LLC,
SPECIFIC MEDIA, LLC,
PHOTOBUCKET.COM, INC.,
DAILYMOTION, INC.,
DAILYMOTION S.A., SOUNDCLOUD,
INC., SOUNDCLOUD LTD., MYXER,
INC., QLIPSO, INC., QLIPSO MEDIA
NETWORKS LTD., YAP.TV, INC.,
GOMISO, INC., IMESH, INC.,
METACAFE, INC., BOODABEE
TECHNOLOGIES, INC., TUNECORE,
INC., ZEDGE HOLDINGS, INC.,
BRIGHTCOVE INC.,
COINCIDENT.TV, INC., ACCEDO
BROADBAND NORTH AMERICA,
INC., ACCEDO BROADBAND AB,
AND MEDIAFIRE, LLC
Defendants.

Civil Action No. 6:12-CV-576 MHS

CONSOLIDATED CASE

BLUE SPIKE, LLC,
Plaintiff,

V.

WIOFFER, LLC
Defendant.

§ Civil Action No. 6:12-CV-570 MHS

CONSOLIDATED CASE

**DECLARATION OF TIM LEE IN SUPPORT
OF DEFENDANT AUDIBLE MAGIC CORPORATION'S AND ITS
CUSTOMERS' MOTION TO TRANSFER VENUE TO THE
UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA UNDER 28 U.S.C. § 1404(a)**

I, Timothy Lee, declare under penalty of perjury that the following is true and correct:

1. I am the CTO of GoMiso, Inc. I have personal knowledge of the facts set forth in this declaration, or access to GoMiso, Inc.'s ("GoMiso") corporate information and records allowing me to confirm these facts. If called as a witness, I could testify competently to these facts under oath.

2. GoMiso is headquartered in San Francisco, California.

3. GoMiso has no operations, employees, or property in Texas.

4. GoMiso regularly conducts business in the San Francisco Bay Area and Silicon Valley.

5. GoMiso is accused in the complaint in the above-referenced action based on Audible Magic's technology.

6. In February 2012, GoMiso entered into an agreement with Audible Magic, located in Los Gatos, California, for a trial period of Audible Magic's Content Identification Services. This is technology accused by Blue Spike in the instant action. The Content Identification Services provided to GoMiso were, at all times, managed by Audible Magic on its computer servers and in its network operations center in Los Gatos, California and San Jose, California.

7. GoMiso interacted with Audible Magic technical and business personnel in Los Gatos, California to obtain the agreement with Audible Magic and with regard to technical aspects of the Audible Magic technology. GoMiso employees responsible for entering into the agreement with Audible Magic are located in San Francisco, California.

8. During the trial period, GoMiso utilized or accessed servers, databases, and software located in and/or originating from Audible Magic in Los Gatos, California.

9. GoMiso had no access to, and no ability to alter, Audible Magic's proprietary source code used to run Audible Magic's Content Identification Services.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on May 21, 2013 in _____

A handwritten signature in black ink, appearing to read "Timothy Lee", is written over a horizontal line.

Timothy Lee